

**PX31**

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI  
AT INDEPENDENCE

KATHERINE O'HAVER,  
Plaintiff,

v.

3M COMPANY, et al.,  
Defendants.

Case No. 1816-CV30710  
Division 12

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DOUGLAS TYE,  
Plaintiff,

v.

ST. LUKE'S EAST ANESTHESIA  
SERVICES, P.C., et al.,  
Defendants.

Case No. 1916-CV00825  
Division 2

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CONFIDENTIAL VIDEOTAPED DEPOSITION OF  
ANDREW CHEN, Ph.D.

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The following is the deposition of ANDREW CHEN, Ph.D., taken on September 22, 2022, commencing at 12:01 p.m., at 60 South Sixth Street, Suite 3100, Minneapolis, Minnesota 55404, before Merilee S. Johnson, Registered Diplomate Reporter, Certified Realtime Reporter, Realtime Systems Administrator, and Notary Public of and for the State of Minnesota.

1 A. You're saying this report (indicating)?

2 Q. Yeah.

3 A. No.

4 Q. That you're aware of.

5 A. That I'm aware of, yes.

6 Q. Okay. So October 17, you and a bunch of  
7 people, including John Abraham and Jennifer Wagner,  
8 go to Fairview Hospital to do flow visualization  
9 tests, correct?

10 A. Yes.

11 Q. Okay. Were there any tests performed on  
12 that date besides the flow visualization tests?

13 A. Not by me.

14 Q. Did you see Dr. Abraham doing anything?

15 A. I recall seeing he did have a flowmeter, I  
16 believe.

17 Q. A flowmeter. Anything else?

18 A. That's my recoll- -- I don't know. It was  
19 something -- he had a meter in his hand.

20 Q. Did anyone do any temperature testing?

21 A. It wasn't me. Perhaps John may have. I  
22 don't know.

23 Q. You don't know one way or the other?

24 A. No.

25 Q. Okay. Now, your job was to turn on the

1 Q. Okay. And it doesn't include Endle. Is  
2 there a reason why?

3 MR. GORDON: Object to the form --

4 BY MR. ASSAAD:

5 Q. If you know.

6 MR. GORDON: -- foundation.

7 A. I don't know.

8 Q. Was he at the October 17, 2015, Fairview  
9 OR?

10 MR. GORDON: Asked and answered.

11 A. He was not in the OR. He was at Fairview.

12 Q. He was outside the OR?

13 A. Yes.

14 Q. Why was he outside the OR?

15 A. I don't know.

16 Q. And -- how many visits were there in total  
17 to the Fairview OR?

18 A. By me?

19 Q. Yeah.

20 A. From what I recall, two.

21 Q. Two? Okay. One before October 15th and  
22 one on October 17th, correct?

23 A. Yes.

24 Q. Okay. Fairview Southdale knew that 3M  
25 planned on performing a study to determine the

1 impact of the Bair Hugger in OR, correct?

2 MR. GORDON: Objection. Lack of  
3 foundation.

4 A. I don't know that.

5 Q. If you go to the email, which you are  
6 copied on. On the email from Maureen Harms on  
7 October 10, 2015, to Trudi Trysla and Jeoff Will,  
8 and you're also copied as a cc.

9 Do you see that?

10 A. Yes.

11 Q. It says on the second -- third paragraph,  
12 "At a high level, our objective is to return to the  
13 same OR -- I believe it is Room 40 -- to perform an  
14 airflow analysis with our forced-air warming  
15 blanket. We have an expert in the operating room  
16 airflow who will assist Dave and our other  
17 engineer."

18 Did I read that correctly?

19 A. Yes.

20 Q. And it says, "Andy with our analysis in the  
21 OR." I didn't finish it.

22 A. Yeah.

23 Q. That was a comma.

24 So when it says "Andy," that's you,  
25 correct?

1           A.     Yes.

2           Q.     Okay. And so based on this email, Fairview  
3 was aware that the purpose of the visit to the OR  
4 by 3M was to perform an airflow analysis with 3M's  
5 forced-air warming blanket, correct?

6                   MR. GORDON: Object to the form of the  
7 question. Lack of foundation.

8           A.     Yes. Now that I see it, yes.

9           Q.     Okay. And, in fact, if you look at the  
10 first sentence, it says, "Trudi, thanks so much.  
11 3M truly appreciates all Fairview is doing to  
12 facilitate our use of your OR."

13                   Did I read that correctly?

14          A.     Yes.

15          Q.     Okay. Do you know who Trudi Trysla is?

16          A.     No.

17          Q.     Have you ever met her?

18          A.     I don't know who she is.

19          Q.     Okay. Do you know why Fairview was chosen?

20                   MR. ASSAAD: If he knows.

21                   THE WITNESS: I don't.

22                   (Simultaneous crosstalk.)

23                   MR. GORDON: Well, if he knows outside  
24 of anything he might have heard from the attorneys,  
25 but...